GOVERNMENT OF INDIA
INFORMATION AND BROADCASTING
LOK SABHA

STARRED QUESTION NO:188
ANSWERED ON:06.05.2016
Misleading Advertisements
Sawant Shri Arvind Ganpat;Scindia Shri Jyotiraditya Madhavrao

Will the Minister of INFORMATION AND BROADCASTING be pleased to state:

(a) whether the Government has taken cognizance of rise in number of misleading advertisements and endorsements on electronic and print media;

(b) if so, the details thereof during the last three years;

(c) whether the Government has any mechanism to check the veracity of the advertisements and endorsements appearing in electronic media, if so, the details thereof and if not, the reasons therefor;

(d) whether the Government proposes to constitute any Authority/Body to control misleading advertisements; and

(e) if so, the details thereof and if not, the reasons therefor along with other steps proposed to be taken by the Government in this regard?

Answer

THE MINISTER OF FINANCE; THE MINISTER OF CORPORATE AFFAIRS AND THE MINISTER OF INFORMATION & BROADCASTING (SHRI ARUN JAITLEY)

(a) to (e): A statement is laid on the table of the House.

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STATEMENT AS REFERRED TO IN REPLY TO PARTS (a) TO (e) OF LOK SABHA STARRED QUESTION No. 188 FOR ANSWER ON 06.05.2016

(a) to (e): Department of Consumer Affairs (DoCA) has informed that a large number of instances of misleading advertisements appear in various media. Section 2 (1) (r) of the existing Consumer Protection Act 1986 provides that the practice of making any statement, whether orally or in writing or by visible representation which falsely represents that the goods are of a particular standard, quality, quantity, grade, composition style or model; falsely represents that the services are of a particular standard, quality or grade, falls under unfair trade practices.

A consumer can make a complaint against unfair trade practice in a Consumer Forum established under the Consumer Protection Act, 1986. If the complaint is upheld by a Consumer Forum, it can order, inter alia, for removal of the defect pointed out, replacing the goods with new goods free from any defect, issuance of corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement, etc.

DoCA has further informed that the Consumer Protection Act, 1986 is being amended for which the Consumer Protection Bill, 2015 has been introduced in Lok Sabha. The Bill seeks to provide for a Central Consumer Protection Authority, the objective of which is to protect and enforce the rights of the consumers, to prevent unfair trade practices and to ensure the rights of the consumers, to prevent unfair trade practices and to ensure that no advertisement is made for any goods or services which is misleading or deceiving or contravenes the provisions of the Act and rules made thereunder.

To ensure inter-ministerial coordination, DoCA has established an Inter-Ministerial Monitoring Committee which is headed by Addl. Secretary, D/o Consumer Affairs and consists of members from Bureau of India Standards, M/o Information & Broadcasting, Press Council of India, Advertising Standards Council of India, M/o Health & Family Welfare, Food Safety and Standards Authority of India, Centre for Consumer Studies (Indian Institute of Public Administration), two representatives on rotation basis from NGOs/VCOs and Industrial/ Business/ Trade Bodies and Central Consumer Protection Council etc. The DoCA has recently launched a portal to enable consumers to register Grievances Against Misleading Advertisements (GAMA). After preliminary scrutiny of the grievances registered on the portal, the grievances are forwarded to the State Government concerned or the respective Central Regulator as the case may be. Between March, 2015 and 31st March, 2016, 1046 complaints have been received through the GAMA portal and the details of disposal are provided at Annexure-I.

In so far as advertisements appearing in private satellite TV channels are concerned, all advertisements telecast on such channels are

regulated in accordance with the Advertising Code available on Ministry's website mib.nic.in. Rule 7 (5) of the Advertising Code provides that no advertisement shall contain references which are likely to lead the public to infer that the product advertised or any of its ingredients has some special or miraculous or super-natural property or quality, which is difficult of being proved.

The Ministry has constituted an Inter Ministerial Committee (IMC) under the chairmanship of the Addl. Secretary (I&B), and comprising of officers drawn from various Ministries such as Consumer Affairs, Home Affairs, Law & Justice, Women & Child Development, Health & Family Welfare, External Affairs, Defence and including a representative from the Advertising Standards Council of India, to take cognizance sou-motu or look into specific complaints regarding violation of the Programme Code and Advertising Code. The IMC functions in a recommendatory capacity. The final decision regarding penalties and its quantum is taken on the basis of the recommendations of IMC. Ministry generally issues warnings or advisories to comply with the Programme/Advertising Codes or asks the channels to scroll apologies on their channel. Occasionally, the channels are also taken off air either temporarily for a limited period depending on the gravity of the violation. A list showing details of action taken against TV channels for telecasting advertisements in violation of Rule 7(5) regarding misleading advertisements is at Annexure-II.

The Advertising Standards Council of India (ASCI), a voluntary self-regulatory body of Advertisement Industry, self-regulates advertising content to monitor and decide on complaints against advertisements making misleading, false and unsubstantiated claims. Rule 7(9) of the Advertising Code provides that no Advertisement which violate the Code for self-regulation in advertising, as adopted by the Advertising Standards Council of India (ASCI), Mumbai for public exhibition in India, from time to time, shall be carried in the cable service. For the past three years the following number of advertisements in electronic media which were found to be making misleading, false and unsubstantiated claims are as under:

Year Total Misleading TV advertisement
2013-2014 187
2014-2015 203
2015-2016 135

In year 2015,the Department of Consumer Affairs appointed ASCI as their executive arm to process complaints received on the GAMA (Grievance Against Misleading Advertisements) portal. The details of all such complaints which are under investigation of ASCI are available on GAMA portal.

In so far as Print Media is concerned, "The Press Council of India (PCI), a statutory autonomous body has been set up under the Press Council Act, 1978 to maintain and improve the standards of newspapers and news agencies in India and also to inculcate principles of self-regulation among the press. The PCI, in furtherance of its objectives under Section 13(2) of the Act has formulated 'Norms of Journalistic Conduct' for adherence by the print media. The Norm 36 on the subject 'Advertisements' framed by PCI is at Annexure −III. The PCI takes cognizance, suo-motu or on complaints, of the contents in print media which are in violation of the 'Norms of Journalistic Conduct'. As per Section 14 of the Act, the Council, after holding an inquiry, may warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist as the case may be. Detail of adjudications on misleading advertisements in Print Media for the last three years is at Annexure-IV.

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